
SUBSTITUTE SENATE BILL 5798

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Swecker and Fraser)

Read first time 03/05/97.

1 AN ACT Relating to the secondary materials industry; amending RCW
2 70.95H.005, 70.95H.010, 70.95H.030, 70.95H.040, 70.95H.900, and
3 42.52.080; adding a new section to chapter 70.95H RCW; adding a new
4 chapter to Title 70 RCW; repealing RCW 70.95H.007, 70.95H.020,
5 70.95H.040, 70.95H.050, and 70.95H.800; providing an effective date;
6 and declaring an emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Sec. 1.** RCW 70.95H.005 and 1991 c 319 s 201 are each amended to
9 read as follows:

10 (1) The legislature finds that:

11 (a) Recycling conserves energy and landfill space, provides jobs
12 and valuable feedstock materials to industry, and promotes health and
13 environmental protection;

14 (b) Seventy-eight percent of the citizens of the state actively
15 participate in recycling programs and Washington currently has the
16 highest recycling rate in the nation;

17 (c) The current supply of many recycled commodities far exceeds the
18 demand for such commodities;

1 (d) Many local governments and private entities cumulatively
2 affect, and are affected by, the market for recycled commodities but
3 have limited jurisdiction and cannot adequately address the problems of
4 market development that are complex, wide-ranging, and regional in
5 nature; and

6 (e) The private sector has the greatest capacity for creating and
7 expanding markets for recycled commodities, and the development of
8 private markets for recycled commodities is in the public interest.

9 (2) Based on the state's recycling experience and the findings and
10 recommendations of the 1996 future of recycling task force, the
11 legislature further finds that:

12 (a) Washington state has made recycling a long-term strategy for
13 resource conservation and solid waste management;

14 (b) It is the state's policy to integrate waste reduction with
15 recycling in carrying out this strategy;

16 (c) Market development for recycled materials is essential to the
17 success of this strategy, and the state has an on-going role and
18 commitment in assisting with the development of markets; and

19 (~~It is therefore the policy of the state to create a single entity~~
20 ~~to be known as the clean Washington center to develop new, and expand~~
21 ~~existing, markets for recycled commodities)) (d) A stable resource base
22 and enhanced funding flexibility are needed to effectively provide the
23 services necessary to support the state's strategies and policies over
24 the long term.~~

25 (3) It is therefore the policy of the state to encourage continued
26 market development for recycled materials, which may be provided
27 through a contract with a private nonprofit corporation.

28 **NEW SECTION. Sec. 2.** A new section is added to chapter 70.95H RCW
29 to read as follows:

30 Unless the context clearly requires otherwise, these definitions
31 apply throughout this chapter:

32 (1) "Corporation" means a private nonprofit corporation formed
33 under chapter 24.03 RCW; and

34 (2) "Department" means the department of community, trade, and
35 economic development.

36 **Sec. 3.** RCW 70.95H.010 and 1991 c 319 s 203 are each amended to
37 read as follows:

1 ~~(1) The ((purpose of the center is))~~ department may contract with
2 a corporation to provide or facilitate business assistance, basic and
3 applied research and development, marketing, public education, and
4 policy analysis in furthering the development of markets for recycled
5 products. As used in this chapter, market development consists of
6 public and private activities that are used to overcome impediments
7 preventing full use of secondary materials diverted from the waste
8 stream, and that encourage and expand use of those materials and
9 subsequent products. ((In fulfilling this mission the center shall
10 primarily direct its)) Market development efforts shall focus primarily
11 on services to businesses that transform or remanufacture waste
12 materials into usable or marketable materials or products for use other
13 than landfill disposal or incineration. All moneys for contracts
14 entered into under this section are subject to appropriation.

15 (2) The department may establish a contract advisory committee to
16 review the selection of a corporation to provide market development
17 services. The contract advisory committee shall include one person
18 from the department of ecology, one person representing cities, one
19 person representing counties, and three people from the private sector
20 representing end users and marketers of recycled products, and solid
21 waste haulers. All members are to be appointed by the director of the
22 department.

23 (3) The department, with the advice of the contract advisory
24 committee, may issue a request for proposals from corporations to
25 provide some or all of the services described in RCW 70.95H.030. The
26 contract may be awarded only with the approval of the contract advisory
27 committee.

28 (4) The contract may include the following provisions:

29 (a) Any equipment, software, membership agreements, licenses,
30 contracts, or other assets that were related to the clean Washington
31 center may be transferred to the corporation under appropriate terms
32 and conditions, including reasonable compensation; and

33 (b) The contract may permit the corporation to charge fees and
34 negotiate other revenue-sharing arrangements with clients for services
35 provided under the contract in order to recover, at least in part, the
36 costs of providing services under the contract. Revenue generated from
37 clients under the contract must be accounted for and used by the
38 corporation solely to help cover the cost of future services under the
39 contract. Revenue generation is not the primary intent of the contract

1 and the department of community, trade, and economic development, as
2 contract administrator, should not permit revenue generation to
3 compromise the public purpose of the services provided under the
4 contract.

5 (5) A contract entered into under this section must provide for the
6 department and the contract advisory committee to review the
7 corporation's performance under the contract at least annually. The
8 review must include, but is not limited to, consideration of the
9 corporation's fees charged for services provided under this section and
10 this chapter, and the extent to which the corporation's performance
11 generally has helped the state to fulfill the purposes of this chapter.
12 The department, with the approval of the contract advisory committee,
13 may terminate or elect not to renew a contract with the corporation if
14 the department and the contract advisory committee find that the
15 corporation has performed unsatisfactorily or has failed to cure a
16 breach of a material term of the contract in a timely manner.

17 **Sec. 4.** RCW 70.95H.030 and 1992 c 131 s 2 are each amended to read
18 as follows:

19 The ((center shall)) contract defined in RCW 70.95H.010 may require
20 a corporation to provide the following services:

21 (1) Provide targeted business assistance to recycling businesses,
22 including:

23 (a) Development of business plans;

24 (b) Market research and planning information;

25 (c) Access to financing programs;

26 (d) Referral and information on market conditions; and

27 (e) Information on new technology and product development;

28 (2) Negotiate voluntary agreements with manufacturers to increase
29 the use of recycled materials in product development;

30 (3) Support and provide research and development to stimulate and
31 commercialize new and existing technologies and products using recycled
32 materials;

33 (4) Undertake an integrated, comprehensive education effort
34 directed to recycling businesses to promote processing, manufacturing,
35 and purchase of recycled products, including:

36 (a) Provide information to recycling businesses on the availability
37 and benefits of using recycled materials;

1 (b) Provide information and referral services on recycled material
2 markets;

3 (c) Provide information on new research and technologies that may
4 be used by local businesses and governments; and

5 (d) Participate in projects to demonstrate new market uses or
6 applications for recycled products;

7 (5) Assist the departments of ecology and general administration in
8 the development of consistent definitions and standards on recycled
9 content, product performance, and availability;

10 (6) Undertake studies on the unmet capital needs of reprocessing
11 and manufacturing firms using recycled materials;

12 (7) Undertake and participate in marketing promotions for the
13 purposes of achieving expanded market penetration for recycled content
14 products;

15 (8) Coordinate with the department of ecology to ensure that the
16 education programs of both are mutually reinforcing, with the
17 ((center)) corporation acting as the lead entity with respect to
18 recycling businesses, and the department as the lead entity with
19 respect to the general public and retailers;

20 (9) Develop an annual work plan. The plan shall describe actions
21 and recommendations for developing markets for commodities comprising
22 a significant percentage of the waste stream and having potential for
23 use as an industrial or commercial feedstock. The initial plan shall
24 address, but not be limited to, mixed waste paper, waste tires, yard
25 and food waste, and plastics; ((and))

26 (10) Represent the state in regional and national market
27 development issues; and

28 (11) Coordinate market development activities with regional and
29 local economic development agencies.

30 **Sec. 5.** RCW 70.95H.040 and 1991 c 319 s 206 are each amended to
31 read as follows:

32 In order to carry out its responsibilities under this chapter, the
33 center may:

34 (1) Receive such gifts, grants, funds, fees, and endowments, in
35 trust or otherwise, for the use and benefit of the purposes of the
36 center. The center may expend the same or any income therefrom
37 according to the terms of the gifts, grants, or endowments;

1 (2) Initiate, conduct, or contract for studies and searches
2 relating to market development for recyclable materials, including but
3 not limited to applied research, technology transfer, and pilot
4 demonstration projects;

5 (3) Obtain and disseminate information relating to market
6 development for recyclable materials from other state and local
7 agencies;

8 (4) Enter into, amend, and terminate contracts with individuals,
9 corporations, trade associations, and research institutions for the
10 purposes of this chapter;

11 (5) Provide grants to local governments or other public
12 institutions to further the development of recycling markets;

13 (6) Provide business and marketing assistance to public and private
14 sector entities within the state; ((and))

15 (7) Evaluate, analyze, and make recommendations on state policies
16 that may affect markets for recyclable materials; and

17 (8) Assist the department in developing a contract with a
18 corporation to provide recycling market development services.

19 **Sec. 6.** RCW 70.95H.900 and 1991 c 319 s 209 are each amended to
20 read as follows:

21 The center shall terminate on ((~~June 30, 1997~~)) December 31, 1997.

22 **Sec. 7.** RCW 42.52.080 and 1994 c 154 s 108 are each amended to
23 read as follows:

24 (1) No former state officer or state employee may, within a period
25 of one year from the date of termination of state employment, accept
26 employment or receive compensation from an employer if:

27 (a) The officer or employee, during the two years immediately
28 preceding termination of state employment, was engaged in the
29 negotiation or administration on behalf of the state or agency of one
30 or more contracts with that employer and was in a position to make
31 discretionary decisions affecting the outcome of such negotiation or
32 the nature of such administration;

33 (b) Such a contract or contracts have a total value of more than
34 ten thousand dollars; and

35 (c) The duties of the employment with the employer or the
36 activities for which the compensation would be received include
37 fulfilling or implementing, in whole or in part, the provisions of such

1 a contract or contracts or include the supervision or control of
2 actions taken to fulfill or implement, in whole or in part, the
3 provisions of such a contract or contracts. This subsection shall not
4 be construed to prohibit a state officer or state employee from
5 accepting employment with a state employee organization.

6 (2) No person who has served as a state officer or state employee
7 may, within a period of two years following the termination of state
8 employment, have a direct or indirect beneficial interest in a contract
9 or grant that was expressly authorized or funded by specific
10 legislative or executive action in which the former state officer or
11 state employee participated.

12 (3) No former state officer or state employee may accept an offer
13 of employment or receive compensation from an employer if the officer
14 or employee knows or has reason to believe that the offer of employment
15 or compensation was intended, in whole or in part, directly or
16 indirectly, to influence the officer or employee or as compensation or
17 reward for the performance or nonperformance of a duty by the officer
18 or employee during the course of state employment.

19 (4) No former state officer or state employee may accept an offer
20 of employment or receive compensation from an employer if the
21 circumstances would lead a reasonable person to believe the offer has
22 been made, or compensation given, for the purpose of influencing the
23 performance or nonperformance of duties by the officer or employee
24 during the course of state employment.

25 (5) No former state officer or state employee may at any time
26 subsequent to his or her state employment assist another person,
27 whether or not for compensation, in any transaction involving the state
28 in which the former state officer or state employee at any time
29 participated during state employment. This subsection shall not be
30 construed to prohibit any employee or officer of a state employee
31 organization from rendering assistance to state officers or state
32 employees in the course of employee organization business.

33 (6) As used in this section, "employer" means a person as defined
34 in RCW 42.52.010 or any other entity or business that the person owns
35 or in which the person has a controlling interest. For purposes of
36 subsection (1)(a) of this section, the term "employer" does not include
37 a private, nonprofit corporation providing services under contract with
38 the state to further the development of markets for recycled materials.

1 NEW SECTION. **Sec. 8.** The following acts or parts of acts, as now
2 existing or hereafter amended, are each repealed, effective January 1,
3 1998:

- 4 (1) RCW 70.95H.007 and 1995 c 399 s 192 & 1991 c 319 s 202;
- 5 (2) RCW 70.95H.020 and 1995 c 399 s 193 & 1991 c 319 s 204;
- 6 (3) RCW 70.95H.040 and 1997 c . . . s 5 (section 5 of this act) &
7 1991 c 319 s 206;
- 8 (4) RCW 70.95H.050 and 1995 c 399 s 194 & 1991 c 319 s 207; and
- 9 (5) RCW 70.95H.800 and 1991 c 319 s 212.

10 NEW SECTION. **Sec. 9.** Waste reduction and recycling are the
11 state's preferred solid waste management strategies and highest
12 priorities for the collection, handling, and management of solid waste.
13 The legislature finds that it cannot effectively carry out its
14 regulatory program of waste reduction and recycling without financial
15 contributions by those who create the need for, and share in the
16 benefits of, that program. The purpose of this chapter is to assure
17 that this contribution occurs in an effective, fair, and equitable way.

18 NEW SECTION. **Sec. 10.** (1) There is imposed on each person using
19 the services of a solid waste collection business or municipal
20 collection service, a solid waste collection tax of one-half of one
21 percent of the consideration charged for the services.

22 (2) Money received by the state under subsection (1) of this
23 section must be deposited in the recycling and waste prevention account
24 created under section 13 of this act.

25 (3) The person collecting the charges made for using the solid
26 waste collection business must collect the tax imposed in this section,
27 and pay the tax to the department of revenue.

28 (4) To prevent pyramiding, the tax imposed in this chapter does not
29 apply to a solid waste collection business using the services of
30 another solid waste collection business for the transfer, storage,
31 processing, or disposal of the waste collected during the transaction.
32 To be eligible for this exemption, a person first must be certified by
33 the department of revenue as a solid waste collection business.

34 (5) The tax imposed in this section does not apply to any agency,
35 division, or branch of the federal government or to services rendered
36 under a contract therewith.

1 (6) The provisions of chapter 82.32 RCW shall apply to the
2 administration of this tax.

3 NEW SECTION. **Sec. 11.** The department of revenue may adopt rules
4 under chapter 34.05 RCW to enforce the provisions of this chapter.

5 NEW SECTION. **Sec. 12.** For purposes of this chapter, "solid waste
6 collection business" means every person who receives solid waste for
7 transfer, storage, or disposal including, but not limited to, all
8 collection services, public or private landfills or waste incinerators,
9 transfer stations, and similar operations.

10 NEW SECTION. **Sec. 13.** The recycling and waste prevention account
11 is created in the state treasury. All receipts from section 10 of this
12 act must be deposited into the account. Moneys in the account may only
13 be spent after appropriation. Expenditures from the account may only
14 be used to:

15 (1) Provide technical and financial assistance to local governments
16 in developing and implementing recycling and waste reduction plans and
17 programs;

18 (2) Develop markets for recycled materials and assist businesses
19 with waste reduction, resource conservation, and designing for
20 recycling;

21 (3) Conduct evaluations, assessments, research, and studies needed
22 to support the state's recycling and waste reduction goals;

23 (4) Provide state coordination, planning, and policy development
24 for recycling and waste reduction;

25 (5) Conduct research and studies to assess the efficiency of
26 existing collection and processing technologies, the feasibility of new
27 technologies, and other recycling and waste reduction activities to
28 carry out the purposes of chapter 70.95 RCW; and

29 (6) Administer and collect the tax imposed in this chapter.

30 NEW SECTION. **Sec. 14.** Sections 9 through 13 of this act
31 constitute a new chapter in Title 70 RCW.

32 NEW SECTION. **Sec. 15.** This act is necessary for the immediate
33 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect
2 June 15, 1997.

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